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DOC #:  
DATE FILED: **22 MAR 2011**

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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J&J SPORTS PRODUCTION, INC., as Broadcast :  
Licensee of the May 28, 2005 Chavez/Robinson :  
Program, :

Plaintiff, :

-v- :

PABLO GARCIA, individually and as an officer, :  
director, shareholder and/or principal of EL :  
TEJANITO RESTAURANT, INC., d/b/a EL :  
TEJANITO PIZZERIA & RESTAURANT and EL :  
TEJANTIO RESTAURANT INC., d/b/a EL :  
TEJANTIO PIZZERIA & RESTAURANT,, :

Defendants. :  
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MEMORANDUM DECISION  
AND ORDER  
06 Civ. 4297 (GBD)(HBP)

GEORGE B. DANIELS, District Judge:

Plaintiffs bring this claim against all Defendants alleging that Defendants illegally intercepted, received and descrambled Plaintiff's broadcast of a boxing match and displayed it in Defendants' restaurant. After Plaintiff served Defendants with a copy of the summons and complaint and Defendants failed to answer, this Court entered default judgment against Defendants and referred the matter to Magistrate Judge Pitman for an inquest on damages. Magistrate Judge Pitman issued two Report and Recommendations. In the Report on inquest, Magistrate Judge Pitman recommended that this Court: (1) award statutory damages of \$250 per patron or \$6,250 for the 25 patrons in the restaurant; (2) decline to award attorney's fees because Plaintiff failed to submit contemporaneous time records; (3) award costs of \$275 for the filing fee and the cost of service; (4) decline to award investigation fees because Plaintiff is not entitled to such fees and even if they were, Plaintiff has not established that the cost was reasonable. In his supplemental

Report, Magistrate Judge Pitman recommended that this Court dismiss the complaint against Pablo A. Garcia pursuant to Fed. R. Civ. P. 4(m) because Plaintiff failed to serve him within 120 days of filing the Complaint.

The Court may accept, reject or modify, in whole or in part, the findings and recommendations set forth within the Report. 28 U.S.C. § 636(b)(1). When there are objections to the Report, the Court must make a de novo determination of those portions of the Report to which objections are made. Id.; see also Rivera v. Barnhart, 432 F. Supp. 2d 271, 273 (S.D.N.Y. 2006). The district judge may also receive further evidence or recommit the matter to the magistrate judge with instructions. See Fed. R. Civ. P. 72(b); 28 U.S.C. § 636(b)(1)(c). It is not required, however, that the Court conduct a de novo hearing on the matter. See United States v. Raddatz, 447 U.S. 667, 676 (1980). Rather, it is sufficient that the Court “arrive at its own, independent conclusions” regarding those portions to which objections were made. Nelson v. Smith, 618 F.Supp. 1186, 1189-90 (S.D.N.Y. 1985) (quoting Hernandez v. Estelle, 711 F.2d 619, 620 (5<sup>th</sup> Cir. 1983)). When no objections to a Report are made, the Court may adopt the Report if “there is no clear error on the face of the record.” Adee Motor Cars, LLC v. Amato, 388 F. Supp. 2d 250, 253 (S.D.N.Y. 2005) (citation omitted). No party objected to the Report.

After reviewing the Report, this Court finds the Magistrate Judge’s conclusions not facially erroneous and adopts the Report and the Supplemental Report in their entirety. Plaintiff is awarded damages of \$6,525.00 and the complaint against Pablo Garcia is dismissed for failure to serve timely.

Further, Magistrate Judge Pitman declined to opine on whether Plaintiff was entitled to a permanent injunction pursuant to 47 U.S.C. §§ 553(c)(2)(A) and

605(e)(3)(B)(i). Since on default all the allegations are taken as true, this Court finds that injunctive relief is warranted. See e.g., Int'l Cablevision, Inc. v. Cancari, 960 F. Supp. 28, 31 (W.D.N.Y. 1997). Therefore, a permanent injunction should be issued against EL TEJANITO RESTAURANT, INC. against future violations of 47 U.S.C. §§ 553 and 605.

### **Conclusion**

This Court adopts the Report and Recommendation and the Supplemental Report and Recommendation in their entirety. Defendant Pablo Garcia is dismissed. The Clerk of the Court is ordered to enter judgment of \$6,525.00 in Plaintiff's favor against the remaining Defendants.

Dated: March 20, 2011  
New York, New York

SO ORDERED:

  
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GEORGE B. DANIELS  
United States District Judge